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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,475	09/08/2003	Curtis C. Ballard	200314482-1	2678

7590 06/28/2005
HEWLETT- PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

NAMAZI, MEHDI

ART UNIT	PAPER NUMBER
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2189

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,475

Applicant(s)

BALLARD ET AL.

Examiner

Mehdi Namazi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to application filed September 9, 2003.

Claim Objections

2. Claims 2, 7, 12, and 17 are objected to because of the following informalities:

As per claims 2, 7, 12, and 17 "fibre" should be replace with --fiber--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6, 8-11, 13-16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagasawa et al.(US. 6,845,435).

As per claims 1, 6, 11, and 16 Nagasawa teaches a method for backing up information (title), comprising: receiving by a data-directing device data to be backed up (fig. 5, element 502), the data-directing device being communicatively coupled to a data-caching device and to a first backup storage device (fig. 1B, element 20); storing the received data by the data-caching device (col. 5, lines 18-19, data buffer holds the data temporarily); storing the received data by the first backup storage device (col. 5, lines 28-32); configuring a switch to communicatively couple the data-directing device to

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a second backup storage device responsive to a backup operation failure (col. 5, lines 20-22, col. 6, lines 10-27); and transferring data stored by the data-caching device to the second backup storage device via the data-directing device (col. 6, lines 10-27).

2. The method of claim 1, wherein the switch is a fiber channel switch.

As per claim 3 Nagasawa teaches the backup storage devices are storage medium drives (col. 6, lines 47-50).

As per claim 4, Nagasawa teaches the received data is stored on a storage medium by the backup storage device (col. 11, lines 45-67).

As per claim 5, Nagasawa teaches storing the received data by the data-caching device and storing the received data by the first backup storage device are performed substantially simultaneously (col. 5, lines 31-32; controller write data into data buffer 202, and first storage buffer in parallel).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasawa, and further in view of Kitamura et al. (2005/0044163).

As per claims 2, 7, 12, and 17, Nagasawa teaches the claimed invention, but fails to teach that the switch is a fiber channel switch.

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Kitamura teaches a system for performing efficient backup wherein a fiber channel switch has been used for main server and backup server (fig. 8).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use fiber channel in switching system as taught by Kitamura into system of Nagasawa in order to speed up data transfer through the switch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehdi Namazi whose telephone number is 571-272-4209. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mehdi Namazi
June 23, 2005

Mano Padmanabhan
6/24/05

MANO PADMANABHAN
SUPERVISORY PATENT EXAMINER